

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Danielle Sivels,

Case No. 23-cv-00894 (DWF/TNL)

Plaintiff,

v.

ORDER

Ramsey County, Ramsey County
Sheriff's Office, Inmate Services,
Corp., Randy Cagle, Marquet Johnson,
Inmate Services, Corp. John Does 1-5,
Ramsey County Sheriff Supervisors
John Does 6-10,

Defendants.

Megan M. Curtis, Megan Curtis Law PLLC, 332 Minnesota Street, Suite W1610, St. Paul, MN 55101 and Paul Applebaum, Applebaum Law Firm, 1st National Bank Building, 332 Minnesota Street, Suite W1610, St. Paul, MN 55101 (for Plaintiff); and

Scott A. Benson, Mark J. Briol, and Darren B. Schwiebert, Briol & Benson, PLLC, 3700 IDS Center, 80 South Eighth Street, Minneapolis, MN 55402 (for Ramsey County Defendants).

I. INTRODUCTION

This matter is before the Court on Plaintiff Danielle Sivels's Motion to Appoint United States Marshals Service to Effect Service on Defendant Marquet Johnson, ECF No. 32. The Court ordered Defendants to respond to Plaintiff's motion. ECF No. 37. The Ramsey County Defendants do not oppose the motion. *See* ECF No. 40.

[Continued on next page.]

II. FACTUAL BACKGROUND

Defendant Marquet Johnson is incarcerated at the Cibola County Correctional Center located in Milan, New Mexico. Pl.'s Mot. to Appoint U.S. Marshals Service at 1, ECF No. 32. Plaintiff mailed to Defendant Johnson via the United States Postal Service an envelope containing a notice of lawsuit, two copies of the request to waive service of summons and a copy of Plaintiff's Complaint and a pre-paid envelope to return the waiver per Federal Rule of Civil Procedure 4(d)(1). *Id.* at 2. Defendant Johnson rejected delivery of the envelope. *See* Exhibit 3, ECF No. 35-3.

Plaintiff corresponded with the United States Marshals Service for the District of New Mexico to effectuate service of the Complaint onto Defendant Johnson. Pl.'s Mot. to Appoint U.S. Marshals Service at 1. The United States Marshals Service for the District of New Mexico, however, cannot serve the Complaint absent a court order. *Id.*; *see also* Exhibit 1, ECF No. 35-1. Thus, Plaintiff is requesting service by a United States Marshal per Federal Rule of Civil Procedure 4(c)(3) and Local Rule 4.1. *Id.* at 2-4.

III. ANALYSIS

“At the plaintiff's request, the court may order that service be made by a United States marshal or deputy marshal or by a person specially appointed by the court.” Fed. R. Civ. P. 4(c)(3). Local Rule 4.1 for the District of Minnesota allows the Court to order service by the United States Marshals Service for good cause shown.

Plaintiff requests service by United States Marshals Service because Defendant Johnson is incarcerated, and he rejected delivery of the envelope that contained the Complaint and waiver of service. Pursuant to Rule 4(c)(3) and Local Rule 4.1, Plaintiff has

shown good cause to appoint service by the United States Marshals Service for the District of New Mexico.

IV. ORDER

Based on the foregoing, all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Plaintiff's Motion to Appoint United States Marshals Service to Effect Service on Defendant Marquet Johnson, ECF No. 32, per Fed. R. Civ. P. 4(c)(3) and D. Minn. Local Rule 4.1 is **GRANTED**.
2. The United States Marshals Service for the District of New Mexico is hereby directed to obtain from the Clerk of Court and serve a copy of the Plaintiff's Complaint, and summons, in this matter by personal service upon Defendant Marquet Johnson at the physical location where he is in custody:

Marquet Johnson
Inmate No.: 43026510
Cibola County Correctional Center
2000 Cibola Loop
Milan, NM 87021

and thereafter provide proofs of successful service that identify the individual served to the Clerk of Court for filing in this case.

Dated: December 7, 2023

s/ Tony N. Leung
Tony N. Leung
United States Magistrate Judge
District of Minnesota

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